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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,755	12/02/2003	Lawrence G. Walters	0346UR	1808
7590	09/08/2004		EXAMINER	
Paul S. Rooy 2620 S. Peninsula Dr Daytona Beach, FL 32118			LABAZE, EDWYN	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/724,755	WALTERS, LAWRENCE G.
	Examiner EDWYN LABAZE	Art Unit 2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12022003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of IDS filed on 12/02/2003.
2. Claims 1-23 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Umbreit (U.S. 6,704,787) in view of Robinson (US 2003/0177102).

Re claims 1-2, 5-10, 14, 18-19: Umbreit discloses date of birth authentication system and method using demographic and/or geographic data supplied by a subscriber that is verified by a third party, which includes age verification means [through the Internet] of a user by comparing the respective birth date 58 with the current date (col5, lines 50+); means of denying access to a desired information if the calculated age is below a threshold age [wherein the threshold age is required by law from the federal government, such as in 28 U.S.C. and 15 U.S.C both not disclosed by Umbreit but well known as public records of the federal government] (col.6, lines 31+; see claim 1; col.9, lines 40+). Furthermore, Umbreit teaches means of displaying content violating local law (col.8. lines 30+); also discloses means of reducing the content's provider risk of being subject to personal jurisdiction and being haled into a foreign court (col5, lines 55+), and means for signing up for an access code or at any time thereafter (col.8, lines 57+).

Umbreit fails to teach means of displaying a penalty statement under 28 U.S.C. of perjury code law, and legal binding statement of electronic signature under 15 U.S.C.; and an E-sign Act statement.

Robinson discloses system and method for biometric authorization for age verification, which age verification means [through a verifier device 126, 130] (paragraphs 0026-0032), database a rule code(s) mapped to the age-restricted action (paragraph 0054+); and means of displaying the age (paragraphs 0056-0061)

In view of Robinson's teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ into the teachings of Umbreit a means for displaying a warning to the user/subscriber of the law requiring a certain minimum age for accessing certain material and the obligation for disclosing the truth along with the penalties for providing false information. Furthermore, such modification would permit that the provider to inform the user/subscriber of the requirements and consequences, and further prevent the material's provider of any legal responsibility at the expense of any fraudulent activity of the user and under any false identity. Additionally, in October 2000 the Federal Electronic Signatures in Global and National commerce Act [also known as e-sign and known in the art] broadly authorizes electronic records and electronic signatures as being legally effective (see US patent application 2001/00591996 of Cooper et al. in paragraphs 0047, 0079, and 0128). Moreover such modification would have been an obvious extension as taught by Umbreit, therefore an obvious expedient.

Re claims 3 and 17: Umbreit teaches a system and method, further comprising displaying a terms and conditions statement on the gateway/web page (col.8, lines 30+).

Re claim 4: Umbreit discloses a system and method, further comprising completion instructions [or the query] on the gateway/web page (col.7, lines 53+).

Re claims 11 and 15: Umbreit teaches a system and method, further comprising displaying a protected inner if the user's age meets or exceeds a threshold [herein disclosed as a minimum age or limit age required to view the content material] age (col.5, lines 40+).

Re claims 12 and 16: Umbreit discloses a system and method, further comprising displaying an access denied page contained an access denied message if the user's age does not meet or exceed a threshold age (col.3, lines 10-30).

Re claim 13: Umbreit teaches a system and method, comprising step of displaying an age limitation statement on the gateway/web page (col.6, lines 31-38).

Re claims 20-23: Umbreit discloses a system and method, comprising step of storing [through the database 16] in memory an access attempts record containing at least one perspective user's name, date of birth, and time and date of attempted access (col.4, lines 5-59).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shin (U.S. 6,196,460) discloses age verification device.

DiMaria et al. (U.S. 6,523,741) teaches apparatus for controlling the rental and sale of age-controlled merchandise and for controlling access to age-controlled services.

Sheppard et al. (U.S. 6,679,425) discloses systems, apparatus and processes to verify a person's age to determine if the person is authorized.

Art Unit: 2876

Mortl (US 2002/0019828) discloses computer-implemented method and apparatus for obtaining permission based data.

Cooper et al. (US 2001/0051996) teaches network-based content distribution system.

Gudorf et al. (US 2002/0133708) teaches method and system for user information verification.

Phillips et al. (US 2003/0154138) discloses identification verification system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395.

The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

el
Edwyn Labaze
Patent Examiner
Art Unit 2876
September 3, 2004



THIEN M. LE
PRIMARY EXAMINER